

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MICHAEL BIES,

Petitioner,

-vs-

MARGARET BAGLEY, Warden,

Respondent.

:

Case No. 1:00-cv-682

:

Chief Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

:

ORDER STAYING CASE PENDING DECISION BY THE OHIO COURTS

This case came on for telephone conference call at 10:00 A.M. on Wednesday, October 14, 2009. Randall Porter represented the Petitioner and Charles Wille represented the Respondent.

The Court is advised that the Hamilton County Common Pleas Court has already begun to process again Petitioner's pending petition for post-conviction relief, including the *Atkins* claim which was severed and resulted in the granting of the writ subsequently reversed by the United States Supreme Court. Under the circumstances, the Court believes and the parties agree that the *Atkins* claim should no longer be bifurcated and these habeas corpus proceedings should be stayed pending final adjudication of the *Atkins* claim (and any other claims accepted for adjudication by the state courts).

Accordingly, these proceedings are stayed pending final adjudication of the pending proceedings in the Hamilton County Common Pleas Court and any appeal from any decision by that

court. The parties shall furnish a copy of this Order to the assigned Common Pleas Judge and shall keep this Court currently advised of the progress of those proceedings.

October 14, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge